

75-6-101. Definitions.

As used in this part:

(1) "Account" means a contract of deposit of funds between a depositor and a financial institution and includes:

- (a) a checking account;
- (b) a savings account;
- (c) a certificate of deposit;
- (d) a share account; and
- (e) other like arrangement.

(2) "Beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee.

(3) "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation:

- (a) banks;
- (b) trust companies;
- (c) industrial banks;
- (d) savings banks;
- (e) building and loan associations;
- (f) savings and loan companies or associations; and
- (g) credit unions.

(4) "Joint account" means an account payable on request to one or more of two or more parties whether or not mention is made of any right of survivorship.

(5) (a) "Multiple-party account" means any of the following types of account:

- (i) a joint account;
- (ii) a P.O.D. account; or
- (iii) a trust account.

(b) "Multiple-party account" does not include:

- (i) accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes; or
- (ii) accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.

(6) (a) "Net contribution" of a party to a joint account as of any given time is the sum of all deposits to it made by or for the party, less all withdrawals made by or for the party which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance.

(b) "Net contribution" includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.

(7) (a) "Party" means a person, including a minor, who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account.

(b) A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee and includes a guardian, conservator, personal representative, or assignee, including

an attaching creditor, of a party.

(c) "Party" includes a person identified as a trustee of an account for another whether or not a beneficiary is named.

(d) "Party" does not include any named beneficiary unless the named beneficiary has a present right of withdrawal.

(8) "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any setoff, reduction, or other disposition of all or part of an account pursuant to a pledge.

(9) "Proof of death" includes a death certificate or record or report which is prima facie proof of death under Section 75-1-107.

(10) "P.O.D. account" means an account payable on request to one person during lifetime and on that person's death to:

(a) one or more P.O.D. payees; or

(b) one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees.

(11) "P.O.D. payee" means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons.

(12) "Request" means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

(13) "Sums on deposit" means the balance payable on a multiple-party account, including interest, dividends, and in addition any deposit life insurance proceeds added to the account by reason of the death of a party.

(14) (a) "Trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; and it is not essential that payment to the beneficiary be mentioned in the deposit agreement.

(b) A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client.

(15) "Withdrawal" includes payment to a third person pursuant to check or other directive of a party.

Amended by Chapter 92, 2004 General Session

75-6-102. Ownership as between parties and others -- Protection of financial institutions.

The provisions of Sections 75-6-103 through 75-6-105 concerning beneficial ownership as between parties, or as between parties and P.O.D. payees or beneficiaries of multiple-party accounts, are relevant only to controversies between these persons and their creditors and other successors, and have no bearing on the

power of withdrawal of these persons as determined by the terms of account contracts. The provisions of Sections 75-6-108 through 75-6-113 govern the liability of financial institutions who make payments pursuant thereto, and their setoff rights.

Enacted by Chapter 150, 1975 General Session

75-6-103. Ownership during lifetime.

(1) A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a different intent.

(2) A P.O.D. account belongs to the original payee during his lifetime and not to the P.O.D. payee or payees; if two or more parties are named as original payees, during their lifetimes rights as between them are governed by Subsection (1) of this section.

(3) Unless a contrary intent is manifested by the terms of the account or the deposit agreement or there is other clear and convincing evidence of an irrevocable trust, a trust account belongs beneficially to the trustee during his lifetime, and if two or more parties are named as trustee on the account, during their lifetimes beneficial rights as between them are governed by Subsection (1) of this section. If there is an irrevocable trust, the account belongs beneficially to the beneficiary.

Enacted by Chapter 150, 1975 General Session

75-6-104. Right of survivorship.

(1) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intention at the time the account is created. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under Section 75-6-103 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death; and the right of survivorship continues between the surviving parties.

(2) If the account is a P.O.D. account:

(a) On death of one of two or more original payees the rights to any sums remaining on deposit are governed by Subsection (1);

(b) On death of the sole original payee or of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more die before the original payee; if two or more P.O.D. payees survive, there is no right of survivorship in event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(3) If the account is a trust account:

(a) On death of one of two or more trustees, the rights to any sums remaining on deposit are governed by Subsection (1);

(b) On death of the sole trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries, if

surviving, or to the survivor of them if one or more die before the trustee, unless there is clear evidence of a contrary intent; and if two or more beneficiaries survive, there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(4) In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of his estate.

(5) A right of survivorship arising from the express terms of the account or under this section, a beneficiary designation in a trust account, or a P.O.D. payee designation, cannot be changed by will.

Amended by Chapter 194, 1977 General Session

75-6-105. Effect of written notice to financial institution.

The provisions of Section 75-6-104 as to rights of survivorship are determined by the form of the account at the death of a party. This form may be altered by written order given by a party to the financial institution to change the form of the account or to stop or vary payment under the terms of the account. The order or request must be signed by a party, received by the financial institution during the party's lifetime, and not countermanded by other written order of the same party during his lifetime.

Enacted by Chapter 150, 1975 General Session

75-6-106. Accounts and transfers nontestamentary.

Any transfers resulting from the application of Section 75-6-104 are effective by reason of the account contracts involved and this statute and are not to be considered as testamentary or subject to Chapters 1 through 4 of this code, except as provided in Sections 75-2-201 through 75-2-214, and except as a consequence of, and to the extent directed by, Sections 75-6-107 and 75-3-916.

Amended by Chapter 39, 1998 General Session

75-6-107. Rights of creditors.

No multiple-party account will be effective against an estate of a deceased party to transfer to a survivor sums needed to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse, minor children and dependent children, if other assets of the estate are insufficient. A surviving party, P.O.D. payee, or beneficiary who receives payment from a multiple-party account after the death of a deceased party shall be liable to account to his personal representative for amounts the decedent owned beneficially immediately before his death to the extent necessary to discharge the claims and charges mentioned above remaining unpaid after application of the decedent's estate. No proceeding to assert this liability shall be commenced unless the personal representative has received a written demand by a surviving spouse, a creditor, or one acting for a minor or dependent child of the decedent; and no proceeding shall be commenced later than two years following the death of the decedent. Sums recovered by the personal representative shall be

administered as part of the decedent's estate. This section shall not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof or make it liable to the estate of a deceased party unless before payment the institution has been served with process in a proceeding by the personal representative.

Enacted by Chapter 150, 1975 General Session

75-6-108. Financial institution protection -- Payment on signature of one party.

Financial institutions may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Any multiple-party account may be paid, on request, to any one or more of the parties. A financial institution shall not be required to inquire as to the source of funds received for deposit to a multiple-party account, or to inquire as to the proposed application of any sum withdrawn from an account, for purposes of establishing net contributions.

Enacted by Chapter 150, 1975 General Session

75-6-109. Financial institution protection -- Payment after death or disability -- Joint account.

Any sums in a joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under Section 75-6-104.

Enacted by Chapter 150, 1975 General Session

75-6-110. Financial institution protection -- Payment of P.O.D. account.

Any P.O.D. account may be paid, on request, to any original party to the account. Payment may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the financial institution of proof of death showing that the P.O.D. payee survived all persons named as original payees. Payment may be made to the personal representative or heirs of a deceased original payee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as an original payee or as P.O.D. payee.

Enacted by Chapter 150, 1975 General Session

75-6-111. Financial institution protection -- Payment of trust account.

Any trust account may be paid, on request, to any trustee. Unless the financial institution has received written notice that the beneficiary has a vested interest not dependent upon his surviving the trustee, payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the

financial institution showing that his decedent was the survivor of all other persons named on the account either as trustee or beneficiary. Payment may be made, on request, to the beneficiary upon presentation to the financial institution of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees.

Enacted by Chapter 150, 1975 General Session

75-6-112. Financial institution protection -- Discharge.

Payment made pursuant to Section 75-6-108, 75-6-109, 75-6-110 or 75-6-111 discharges the financial institution from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, P.O.D. payees, or beneficiaries, or their successors. The protection here given does not extend to payments made after a financial institution has received written notice from any party able to request present payment to the effect that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in any demand for withdrawal if the financial institution is to be protected under this section. No other notice or any other information shown to have been available to a financial institution shall affect its right to the protection provided here. The protection here provided shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

Enacted by Chapter 150, 1975 General Session

75-6-113. Financial institution protection -- Setoff -- Attachment, garnishment, and other legal process.

(1) Without qualifying any other statutory right to setoff or lien and subject to any contractual provision, if a party to a multiple-party account is indebted to a financial institution, the financial institution has a right to setoff against the balance in any account in which the party has or had immediately before his death a present right of withdrawal.

(2) Without regard to the ownership of funds in any multiple-party account and without incurring liability for wrongful dishonor, conversion, or other liability or damage to any person, a financial institution may refuse to permit any withdrawals from the account after service on the financial institution of an attachment, garnishment, execution, or other legal process against the account. The financial institution shall not be required to pay out any part of the credit balance in the account pursuant to an attachment, garnishment, judgment, or other legal process issued in any proceeding against any one or more but less than all of the persons to whom the account is payable until the institution has been furnished with a certified copy of an order of the court determining which of the persons owned the credit balance at the time the process was served on the institution. Payment pursuant to the process in the amount specified in the court order shall be valid and release the financial institution as to any persons claiming an interest in the account.

Enacted by Chapter 150, 1975 General Session

75-6-114. Financial institution protection -- Costs and attorneys' fees.

A financial institution shall have a lien for its costs and attorneys' fees on the sums on deposit in any multiple-party account in such institution which becomes the subject of any litigation as to the rights to such sums. This lien shall attach only if the financial institution acted in good faith and with good cause.

Enacted by Chapter 150, 1975 General Session

75-6-115. Agency accounts.

Nothing in this chapter shall preclude a party to an account from adding the name of another person to such an account with the designation "agent." This agent shall have no present or future interest in the sums on deposit in such account, but the financial institution may honor requests for payment from such account by such agent, whether the principal be incapacitated or deceased at the time the payment is demanded, unless the financial institution has actual knowledge of such death or incapacity. Payments from such account by such financial institution at the request of such agent shall discharge such financial institution from all claims for amounts so paid.

Amended by Chapter 194, 1977 General Session

75-6-201. Provisions for payment or transfer at death.

(1) Any of the following provisions in an insurance policy, contract of employment, bond, mortgage, promissory note, deposit agreement, pension plan, trust agreement, conveyance, or any other written instrument effective as a contract, gift, conveyance, or trust are considered nontestamentary, and this code does not invalidate the instrument or any provision:

(a) that money or other benefits previously due to, controlled, or owned by a decedent shall be paid after his death to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently;

(b) that any money due or to become due under the instrument shall cease to be payable in event of the death of the promisee or the promisor before payment or demand; or

(c) that any property which is the subject of the instrument shall pass to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently.

(2) Nothing in this section limits the rights of creditors under other laws of this state.

(3) Any provision in a lease of a safety deposit repository to the effect that two or more persons shall have access to the repository, that purports to create a joint tenancy in the repository or in the contents of the repository, or that purports to vest ownership of the contents of the repository in the surviving lessee is ineffective to create joint ownership of the contents of the repository or to transfer ownership at death of one of the lessees to the survivor. Ownership of the contents of the repository and devolution

of title to these contents is determined according to rules of law without regard to the lease provisions. The contents of the repository may be delivered on request to any person who has access to the repository by the terms of the lease agreement without liability on the part of the financial institution or other person where the repository is located.

(4) Any motor vehicle, trailer, semitrailer, or boat registration in the names of two or more individuals shall be deemed to be held in joint tenancy with right of survivorship unless otherwise indicated.

Amended by Chapter 158, 1986 General Session

75-6-202. Direction to pay taxes in trust or other dispositive instrument.

A general direction in a trust or other dispositive instrument to pay all taxes imposed as a result of a decedent's death or similar language shall not be construed to include taxes imposed on a "generation skipping transfer" under Section 2601 of the Internal Revenue Code of 1954 (or any successor or amended section of similar content) unless the trustor of the trust or creator of the other dispositive instrument shall express an intention that these taxes be paid out of the property which is subject to the trust or other dispositive instrument by reference to the generation skipping tax or otherwise.

Enacted by Chapter 226, 1983 General Session

75-6-301. Title.

This part shall be known as the "Uniform Transfer on Death Security Registration Act."

Amended by Chapter 79, 1996 General Session

75-6-302. Definitions.

In this part, unless the context otherwise requires:

(1) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(2) "Devisee" means any person designated in a will to receive a disposition of real or personal property.

(3) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(4) "Person" means an individual, a corporation, an organization, or other legal entity.

(5) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(6) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(7) "Register," including its derivatives, means to issue a certificate showing the

ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(8) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(9) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

(10) "Security account" means:

(a) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; or

(b) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

(11) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

Amended by Chapter 79, 1996 General Session

75-6-303. Registration in beneficiary form -- Sole or joint tenancy ownership.

Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

Enacted by Chapter 9, 1995 General Session

75-6-304. Registration in beneficiary form -- Applicable law.

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

Enacted by Chapter 9, 1995 General Session

75-6-305. Orientation of registration in beneficiary form.

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

Enacted by Chapter 9, 1995 General Session

75-6-306. Form of registration in beneficiary form.

Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name of the registered owner and before the name of a beneficiary.

Enacted by Chapter 9, 1995 General Session

75-6-307. Effect of registration in beneficiary form.

The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

Enacted by Chapter 9, 1995 General Session

75-6-308. Ownership on death of owner.

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

Enacted by Chapter 9, 1995 General Session

75-6-309. Protection of registering entity.

(1) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this part.

(2) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this part.

(3) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with Section 75-6-307 and does so in good faith reliance on:

(a) the registration;

(b) this part; and

(c) information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of this part do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this part.

(4) The protection provided by this part to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

Amended by Chapter 79, 1996 General Session

75-6-310. Nontestamentary transfer on death.

(1) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this part and is not testamentary.

(2) This part does not limit the rights of creditors of security owners against beneficiaries and other transferees under the laws of this state.

Amended by Chapter 79, 1996 General Session

75-6-311. Terms, conditions, and forms for registration.

(1) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests for:

(a) registrations in beneficiary form; and

(b) implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(2) The following are illustrations of registrations in beneficiary form which a

registering entity may authorize:

- (a) Sole owner-sole beneficiary: John S Brown TOD (or POD) John S Brown Jr.
- (b) Multiple owners-sole beneficiary: John S Brown Mary B Brown JT TEN TOD John S Brown Jr.
- (c) Multiple owners-primary and secondary (substituted) beneficiaries: John S Brown Mary B Brown JT TEN TOD John S Brown Jr SUB BENE Peter Q Brown or John S Brown Mary B Brown JT TEN TOD John S Brown Jr LDPS.

Enacted by Chapter 9, 1995 General Session

75-6-312. Rules of construction.

(1) This part shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this part among states enacting it.

(2) Unless displaced by the particular provisions of this part, the principles of law and equity supplement its provisions.

Amended by Chapter 79, 1996 General Session

75-6-313. Application of part.

This part applies to registrations of securities in beneficiary form made before or after January 1, 1995, by decedents dying on or after June 30, 1995.

Amended by Chapter 79, 1996 General Session